
BOARD OF TRUSTEES OF THE INDIANA PUBLIC RETIREMENT SYSTEM

Resolution No. 2016-11-04

Adopting rules related to the administration of the Fund as described herein.

WHEREAS, the Indiana Public Retirement System exists to provide retirement benefits to its members, their survivors, and beneficiaries;

WHEREAS, the Board of Trustees of the Indiana Public Retirement System, by statute, administers the Fund;

WHEREAS, the Board of Trustees, pursuant to [IC 5-10.5-4-2](#), may establish and amend rules and regulations for the administration of the Fund without adopting a rule under Indiana Code 4-22-2;

WHEREAS, the Board of Trustees of the Indiana Public Retirement System wishes to adopt, amend, and/or repeal certain rules contained or to be contained in the Indiana Administrative Code related to the administration of the Fund as described herein; and

WHEREAS, the following adoptions and amendments are effective July 1, 2017, unless otherwise stated;

NOW THEREFORE, BE IT RESOLVED by the Board of Trustees of the Indiana Public Retirement System that:

SECTION 1. [35 IAC 1.2-3-18](#) IS ADDED TO READ AS FOLLOWS:

[35 IAC 1.2-3-18](#) Service credit determinations

Authority: [IC 5-10.5-4-2](#)

Affected: [IC 5-10.3-7-8](#)

Sec. 18. A member who:

(1) receives a service credit determination from INPRS that incorrectly states the member's vested status; and

(2) subsequently relies on that determination during the member's decision to resign his or her position;

may be eligible for vested status, if that member's retirement application is denied. Such cases shall be evaluated on a case by case basis and whether vested status is granted depends on the unique facts for each member's situation. Any service credit granted shall be used for pension eligibility purposes only and shall not be used in the calculation of a benefit. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.2-3-18](#); adopted Nov 4, 2016: [20161116-IR-035160500ONA](#))

SECTION 2. [35 IAC 1.2-5-1](#) IS AMENDED TO READ AS FOLLOWS:

[35 IAC 1.2-5-1](#) Retirement options

Authority: [IC 5-10.5-4-2](#)

Affected: [IC 5-10.2-4](#); [IC 5-10.3-8-3](#); [IC 33-38-8-14](#)

Sec. 1. (a) A member who retires or becomes eligible for a disability retirement cannot change the retirement option, nor may a member who chooses a lump sum payment under [IC 5-10.2-4-2](#)(a) change this choice, nor may the beneficiary designation on the application for benefits be changed under joint and survivorship options 30, 40, or 50, after the first day of the month that benefit payments are scheduled to begin. It is immaterial whether or not a check has been sent, received, or negotiated. (See also section 13 of this rule.) A member of the fund after June 30, 2008, may change a beneficiary designation pursuant to [IC 5-10.2-4-7](#) or [IC 5-10.2-4-7.2](#).

(b) Under [IC 5-10.2-4-7](#), in the event that the increased retirement benefit under the integration with Social Security option prior to Social Security eligibility is calculated to be greater than an amount ~~which~~ **that** is the actuarial equivalent of the retirement benefit under the normal guaranteed retirement benefit payable as a life annuity ~~which~~ **that** ceases on the date of the member's death or, if later, the member's Social Security age of eligibility, then the increased retirement benefit shall be limited to such actuarial equivalent and there will be no retirement benefit payable after the age of Social Security eligibility. (In no event shall fewer than sixty (60) payments be made.) For purposes of this section, the retirement benefit does not include any payments from an

(c) A member's pre-sixty-two (62) monthly pension benefit with Social Security integration shall be computed as follows:

- (1) Multiply the member's Social Security estimate for benefits to be received at sixty-two (62) years of age and actuarial factors established by INPRS' actuary, and obtain a product.
- (2) Add the amount of the member's pension as calculated in [IC 5-10.2-4-4](#) and [IC 5-10.2-4-5](#) to the product obtained in subdivision (1). For purposes of this section, the retirement benefit does not include any payments from an ASA or RSA.

(d) A member's monthly pension benefit with Social Security integration at sixty-two (62) years of age shall be computed as follows:

- (1) Multiply the member's Social Security estimate for benefits to be received at sixty-two (62) years of age and actuarial factors established by INPRS' actuary, and obtain a product.
- (2) Subtract the product obtained in subdivision (1) from the member's pre-sixty-two (62) monthly pension benefit with Social Security integration as calculated in subsection (c).

(e) Members may select any nonconflicting retirement option in addition to Social Security integration.

(f) If a retired member receiving benefits under this option dies before sixty-two (62) years of age, and a benefit is due to a survivor beneficiary under a joint and survivor option, the survivor benefit will be recalculated and adjusted as described in subsection (d) and in accord with the survivor option when the member would have reached sixty-two (62) years of age.

(g) Under [IC 33-38-8-14](#), a judge's retirement benefit is calculated upon the date the member applies to receive a retirement benefit. As used in [IC 33-38-8-14](#), "applies to receive a retirement benefit" is defined as the date upon which INPRS receives and accepts a member retirement application. (*Board of Trustees of the Indiana Public Retirement System*; [35 IAC 1.2-5-1](#); filed Dec 20, 1988, 1:00 p.m.: 12 IR 1081; readopted filed Oct 31, 2001, 2:18 p.m.: 25 IR 897; adopted Nov 9, 2007: [20071205-IR-035070818ONA](#); adopted Nov 21, 2008: [20090107-IR-035080955ONA](#); adopted Feb 19, 2010: [20100310-IR-035100124ONA](#); adopted Dec 14, 2012: [20121226-IR-035120663ONA](#); adopted Sep 11, 2015: [20150923-IR-035150302ONA](#); adopted Nov 4, 2016: [20161116-IR-035160500ONA](#))

SECTION 3. [35 IAC 1.2-5-5](#) IS AMENDED TO READ AS FOLLOWS:

[35 IAC 1.2-5-5](#) "Basic salary" or "compensation" defined

Authority: [IC 5-10.5-4-2](#)

Affected: [IC 5-10.2-4-3](#); [IC 5-10.3-7-11](#)

Sec. 5. (a) Subject to subsections (b) and (c), "basic salary" or "compensation" means all compensation ~~that~~ is included as gross income **and paid to the employee**, as reported on the member's W-2, for covered service by a covered employer, plus the amounts stated in [IC 5-10.2-4-3](#) that are not paid directly to the member. **Subject to the limitations described in subsection (b), compensation includes, but is not limited to, vacation pay, sick pay, and employee bonuses. Certain fringe benefits, as defined in Internal Revenue Code Section 132(a), are not included in gross income.**

(b) Compensation of not more than two thousand dollars (\$2,000) pursuant to and in accordance with [IC 5-10.2-4-3](#) **(in contemplation of retirement)** may be used in the total annual compensation from which the average of the annual compensation is determined. **This includes, but is not limited to, retirement bonuses, commutation of unused sick or personal leave, and payments made under the retiree leave donversion [sic, conversion] program (RLCP) as set forth in [31 IAC 5-10](#).**

(c) "Basic salary" does not include investment incentive bonus compensation paid under an investment incentive bonus plan **or executive director incentive bonus plan** established by the INPRS board, and no contributions are to be paid on such compensation.

(d) A member's basic salary or annual compensation must be certified by an official of the employing unit who has knowledge of and access to the records as set forth in [IC 5-10.3-7-11](#). A member may not certify his or her basic salary or annual compensation. (*Board of Trustees of the Indiana Public Retirement System*; [35 IAC 1.2-5-5](#); filed Dec 20, 1988, 1:00 p.m.: 12 IR 1082; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1265; adopted Nov 9,

2007: [20071205-IR-035070818ONA](#); adopted Nov 19, 2010: [20101208-IR-035100722ONA](#); adopted Sep 14, 2012: [20120926-IR-035120542ONA](#); adopted Nov 4, 2016: [20161116-IR-035160500ONA](#))

SECTION 4. [35 IAC 1.2-5-9](#) IS AMENDED TO READ AS FOLLOWS:

[35 IAC 1.2-5-9](#) Survivor benefits

Authority: [IC 5-10.5-4-2](#)

Affected: [IC 5-10.2](#); [IC 5-10.3](#); [IC 5-10.2-3-7.5](#)

Sec. 9. (a) If the total amount of survivor benefits **payments from the annuity savings account** paid to a surviving spouse or surviving dependent **designated beneficiary** does not exceed the member's total **annuity savings account** contributions plus accumulated interest, the difference shall be paid to the surviving dependent or his **designated beneficiary's** estate. ~~or, in the case of a surviving spouse, the surviving spouse's estate.~~

(b) If an active member with more than fourteen (14), but less than fifteen (15), years of creditable service dies, the surviving spouse or dependent is entitled ~~for~~ to a benefit if:

- (1) the member dies after December 31, 2006;
- (2) the member was at least sixty-five (65) years of age at the time of death;
- (3) the member died in service in a PERF-covered position; and
- (4) the surviving spouse or dependent qualifies for a benefit.

(Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.2-5-9](#); filed Dec 20, 1988, 1:00 p.m.: 12 IR 1083; readopted filed Oct 31, 2001, 2:18 p.m.: 25 IR 897; adopted Nov 9, 2007: [20071205-IR-035070818ONA](#); adopted Feb 19, 2010: [20100310-IR-035100124ONA](#); adopted Nov 4, 2016: [20161116-IR-035160500ONA](#))

SECTION 5. [35 IAC 1.2-5-17](#) IS AMENDED TO READ AS FOLLOWS:

[35 IAC 1.2-5-17](#) Birth date and date of death; proof required

Authority: [IC 5-10.5-4-2](#)

Affected: [IC 5-10.2](#); [IC 5-10.3](#); [IC 34-28-1](#)

Sec. 17. (a) No retirement benefits shall be paid to a member until the member provides proof of date of birth in any one (1) of the following forms:

- (1) A birth certificate or registration from the public health department or other governmental entity.
- (2) A court decree obtained under [IC 34-28-1](#) and certified by the clerk of the court.
- (3) Other evidence relating to the member's date of birth may be submitted, and upon approval the board shall fix a date based thereon.

(b) A member selecting a joint and survivor retirement option shall also provide evidence of the date of birth of the cosurvivor.

(c) INPRS may obtain date of birth and date of death information from the Indiana state department of health or other reasonable sources, as approved by INPRS. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.2-5-17](#); filed Dec 20, 1988, 1:00 p.m.: 12 IR 1084; readopted filed Oct 31, 2001, 2:18 p.m.: 25 IR 897; adopted Nov 9, 2007: [20071205-IR-035070818ONA](#); adopted Sep 16, 2011: [20110928-IR-035110563ONA](#); adopted Nov 4, 2016: [20161116-IR-035160500ONA](#))

SECTION 6. [35 IAC 1.2-5-21](#) IS AMENDED TO READ AS FOLLOWS:

[35 IAC 1.2-5-21](#) ASA valuation

Authority: [IC 5-10.2-2-1](#); [IC 5-10.2-2-3](#); [IC 5-10.5-4-2](#)

Affected: [IC 5-10.2-3](#); [IC 5-10.2-4](#)

Sec. 21. (a) A member may direct an allocation in the amount credited to the member among the ~~guaranteed program~~ **stable value fund** and any ~~of the~~ available alternative ~~accounts~~ **investment programs** subject to the following conditions:

- (1) **PERF INPRS** shall allow a member to make a change or selection at least once a day.
- (2) **PERF INPRS** shall implement the member's selection the same day the selection is received by **PERF INPRS** unless such selection is received after 4:00 p.m. EST on a business day, or anytime on a weekend or holiday, or any other date the New York Stock Exchange is closed, then **PERF INPRS** shall implement the member's selection beginning the next business day after the selection is received. This date is the effective date of the member's selection.

(3) A member may select any combination of the ~~guaranteed program~~ **stable value fund** or any of the available alternative accounts **investment programs** in one percent (1%) increments.

(4) A member's selection remains in effect until a new selection is made.

(5) On the effective date of a member's selection, **PERF INPRS** shall reallocate the member's existing balance or balances in accordance with the member's direction, based on

(A) ~~for an alternative investment program balance~~, the sum of the market value on the effective date, minus any applicable investment management fees. and

(B) ~~for any guaranteed program balance, the account balance on the effective date.~~

(b) When a member who participates in the alternative or ~~guaranteed~~ **stable value fund** investment programs transfers the amount credited to the member from one (1) alternative investment program to another alternative investment program or to the ~~guaranteed program~~ **stable value fund**, the amount credited to the member shall be valued at the sum of the market value of the member's investment, as of the effective date of the member's selection, minus any applicable investment management fees.

(c) When a member who participates in ~~an alternative~~ **any of the investment program programs** retires, becomes disabled, or suspends membership and withdraws from the fund, the amount credited to the member shall be the sum of the market value of the member's investment as of the day after INPRS receives the member's application for distribution or annuitization at retirement, disability, or suspension and withdrawal, plus contributions received after that date, minus any applicable investment management fees.

(d) When a member who participates in an alternative investment program dies, within five (5) business days after the date of death notification is received by **PERF, INPRS**, the entire amount in the member's annuity savings account will be moved into ~~the guaranteed program or~~ a fixed value account. ~~set at the same rate as the guaranteed program.~~ Such death notification shall be on a form or in a manner approved by **PERF, INPRS**. The amount credited to the member's account and moved to the fixed value account shall be the sum of the market value of the member's investment as of the day the amount in the member's annuity savings account is moved to the fixed value account minus any applicable investment management fees.

(e) Subject to and in accordance with the distribution provisions of [IC 5-10.2-3](#) and [IC 5-10.2-4](#), in the event that the member has designated beneficiaries, beneficiary accounts will be established for each beneficiary and the pro rata share of all monies in the member's ASA will be moved to the respective beneficiary account and invested in the ~~guaranteed program or a fixed value account, set at the same rate as the guaranteed program~~ until claimed or forfeited **stable value fund** under [IC 5-10.2-3](#). (Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.2-5-21](#); adopted Feb 19, 2010: [20100310-IR-035100124ONA](#); adopted Sep 16, 2011: [20110928-IR-035110563ONA](#); adopted Dec 14, 2012: [20121226-IR-035120663ONA](#); adopted Mar 6, 2015: [20150318-IR-035150060ONA](#); adopted Nov 4, 2016: [20161116-IR-035160500ONA](#))

SECTION 7. [35 IAC 1.2-5-27](#) IS ADDED TO READ AS FOLLOWS:

[35 IAC 1.2-5-27](#) When retirement application deemed received

Authority: [IC 5-10.5-4-2](#)

Affected: [IC 5-10.2-4-1](#); [IC 5-10.3-8-5](#)

Sec. 27. (a) A member who:

(1) receives a service credit or other determination from INPRS that inaccurately states the member's vested status or eligibility to begin receiving retirement or disability benefits; and

(2) relies on that inaccurate information to delay the member's retirement date and the filing of a retirement application;

may be eligible for a retirement date that relates back to the date the member received the inaccurate determination or the date first eligible to begin receiving benefits following the date of the inaccurate determination. INPRS may deem the retirement application received on the date of the inaccurate determination or the date first eligible to begin receiving benefits following the date of the inaccurate determination.

(b) Subsection (a) applies only to members who:

(1) were vested or eligible to begin retirement benefits, as determined by INPRS, at the time of the inaccurate determination; and

(2) request that INPRS grant a retirement date that relates back to the date the member was first eligible for retirement benefits and follows the date of the inaccurate determination.

(c) The member may choose a retirement date that is the first day of the month following the date the application is deemed received.

(d) The inaccurate determination does not have to be in writing if the member can show, to the satisfaction of INPRS, the determination was inaccurate, the member relied on the determination in choosing a retirement date and filing an application, and any other elements necessary to comply with this section.

(e) This rule is administered in accordance with [IC 5-10.3-8-5](#), which addresses claims of errors. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.2-5-27](#); adopted Nov 4, 2016: [20161116-IR-035160500ONA](#))

SECTION 8. [35 IAC 1.2-5-28](#) IS ADDED TO READ AS FOLLOWS:

[35 IAC 1.2-5-28](#) Filing retirement application

Authority: [IC 5-10.5-4-2](#)

Affected: [IC 5-10.2-4-1.3](#)

Sec. 28. INPRS will not accept a retirement application more than six (6) months in advance of the retirement date. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.2-5-28](#); adopted Nov 4, 2016: [20161116-IR-035160500ONA](#))

SECTION 9. [35 IAC 1.2-6-7](#) IS AMENDED TO READ AS FOLLOWS:

[35 IAC 1.2-6-7](#) Legislators' defined contribution plan loans

Authority: [IC 2-3.5-5-11](#); [IC 5-10.5-4-2](#)

Affected: [IC 2-3.5-5-11](#)

Sec. 7. (a) Any participant in the legislators' defined contribution plan may apply on the applicable form to the fund for a loan from the legislators' defined contribution plan pursuant to this rule and such other procedures as may be established by the fund. Such loans will be available to all such participants on a uniform and nondiscriminatory basis. All loans are subject to the approval of the fund or its designee.

(b) The maximum amount of such loan, when added to the outstanding balance of all other loans from the fund, shall not exceed the lesser of:

- (1) fifty thousand dollars (\$50,000), reduced by the excess, if any, of the highest outstanding balance of loans from the fund during the one (1) year period ending on the day before the date on which the loan is made, over the outstanding balance of loans from the fund on the date on which such loan is made; or
- (2) one-half (1/2) of the employee's accounts within the defined contribution plan of the participant under the fund.

(c) Subject to subsection (b), the minimum amount of a loan shall be one thousand dollars (\$1,000).

(d) The loan program described in this rule shall ~~by~~ **be** administered by the fund or its designee. All loans shall comply with the following terms and conditions:

- (1) All loans shall be subject to applicable Internal Revenue Service regulations and restrictions.
- (2) A participant may apply for a loan by completing the applicable forms.
- (3) Each loan shall be amortized on a substantially level basis with monthly payments. Payments shall be made on the first of a month for that month. The period of repayment shall be a minimum of twelve (12) months and shall not exceed five (5) years from the loan origination date. Notwithstanding the preceding sentence, the term of the loan shall not extend beyond the earlier of:

- (A) in the case of a distribution ~~which~~ **that** begins after the date of the loan, the date such distribution of the employee's accounts within the defined contribution plan of the participant under the fund begins; or
- (B) the date of a default on the loan.

(e) The participant receiving the loan shall make the required repayments in accordance with the loan agreement. **If the participant fails to make a timely loan repayment, the participant may make up any missed repayments before the end of cure period described in subsection (g)(1). INPRS must receive the payment on or before the last day of the cure period.**

(f) The rate of interest shall be the prime rate per annum, as published in The Wall Street Journal on the first

day of the quarter (or the earliest publication day of the quarter in the event of a publication holiday) in which a completed loan application is submitted, plus one percent (1%). A loan will carry the same interest rate throughout its term.

(g) The fund shall declare a default on a loan as of:

(1) the last day of the calendar quarter following the calendar quarter in which the participant fails to make a payment, unless the participant pays the amount due plus accrued interest and makes the loan account current with no other outstanding late payments owed prior to such date; or

(2) the date thirty (30) days after the fund in good faith deems the plan insecure with respect to the repayment of the loan and notifies the participant of this deemed insecurity.

(h) On default, the entire amount outstanding on the participant's loan will be due and payable.

(i) On default, the fund shall report to the Internal Revenue Service the outstanding loan balance (principal and interest) as a taxable distribution to the participant, which may also be subject to an additional ten percent (10%) excise tax under the Internal Revenue Code.

(j) A defaulted loan will continue to accrue interest until the loan amount has been repaid even in the event of a deemed distribution. **A loan that is deemed distributed continues to accrue interest until it is repaid. The outstanding loan balance is considered only when determining the maximum loan amount available under Internal Revenue Code Section 72(p)(2)(A). Interest accruing on the loan after it is deemed distributed is not required to be repaid.**

(k) Each loan shall be adequately secured. The plan shall have a security interest in the employee's accounts within the defined contribution plan of the participant under the fund.

(l) Any loan to a participant shall be considered to be a separate asset of the legislators' defined contribution plan segregated for the benefit of such participant. The interest paid on the loan shall be credited to the employee's accounts within the defined contribution plan of the participant. Such portion of the employee's accounts within the defined contribution plan on loan to the participant shall not share in the allocation of gains or losses. The principal and interest paid on the loan shall be credited to such employee's accounts within the defined contribution plan as determined by the fund.

(m) A participant may not take out any additional loans while the participant has a loan in default.

(n) A participant may not take more than two (2) loans in any calendar year.

(o) A participant may have any number of loans outstanding as long as all of the requirements of this rule are met.

(p) Any loan processing fee charged by a third party will be paid by the participant from the employee's accounts within the defined contribution plan of the participant.

(q) The loan proceeds will come from the employee's accounts within the defined contribution plan of the participant on a pro rata basis, and from the directed investment options of the participant on a pro rata basis.

(r) The participant may prepay, without penalty, the entire (or any part of the) outstanding principal balance of the loan and accrued interest to date of repayment. Prepayments should be made by check or other negotiable instrument (excluding cash) made payable to the fund and delivered to the fund or its designee. No reamortization will apply. (*Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-6-7; filed Dec 18, 2001, 9:09 a.m.; 25 IR 1488; adopted Nov 9, 2007: [20071205-IR-035070818ONA](#); adopted Sep 16, 2011: [20110928-IR-035110563ONA](#); adopted Nov 4, 2016: [20161116-IR-035160500ONA](#)*)

SECTION 10. [35 IAC 1.3-4-2](#) IS AMENDED TO READ AS FOLLOWS:

[35 IAC 1.3-4-2](#) Membership options

Authority: [IC 5-10.3-12-18](#); [IC 5-10.5-4-2](#)

Affected: [IC 5-10.3-6-1](#); [IC 5-10.3-7-1](#); [IC 5-10.3-12-1](#)

Sec. 2. (a) An employee's participation in the fund or the plan is determined by the employer classification of a participant's position, in the employer resolution **on file with INPRS**.

(b) A participant with only prior fund service shall become a member of the fund, only if the employer offers fund membership to that participant's position. **If an employer requires all new employees to become members of the fund, the employee becomes a member of the fund regardless of the member's service or participation history.**

(c) A participant with only prior plan service shall become a member of the plan, only if the employer offers plan membership to that participant's position. **If an employer requires all new employees to become members of the plan, the employee becomes a member of the plan regardless of the member's service or participation history.**

(d) A participant with both prior fund service and prior plan service shall become a member of the plan, only if the employer offers plan membership to that participant's position. **If an employer offers new employees a choice between fund or plan membership, the employee may choose membership in either the fund or the plan, regardless of the employee's PERF service or participation history. The employee's choice is irrevocable . Once an employee makes a decision between the fund or the plan with a specific employer, that employee will not receive another choice if later reemployed with that specific employer.**

(e) An employer may require all new employees without prior PERF service or participation to enter into only either the fund or plan. The same employer may allow new employees with prior PERF service or years of participation a choice between plan and fund membership.

(f) A previous PERF covered state employee rehired by the state who did not have a previous opportunity to elect plan participation with the state may make the irrevocable election to participate in the plan under same terms and conditions as a newly hired first-time PERF covered state employee.

(g) Employers may designate whether employees who are retired from the fund may be enrolled in the plan. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.3-4-2](#); adopted Sep 11, 2015: [20150923-IR-035150302ONA](#); adopted Nov 4, 2016: [20161116-IR-035160500ONA](#))

SECTION 11. [35 IAC 1.3-7-7](#) IS AMENDED TO READ AS FOLLOWS:

[35 IAC 1.3-7-7](#) Resolutions filed by political subdivisions; contributions

Authority: [IC 5-10.3-12-18](#); [IC 5-10.5-4-2](#)

Affected: [IC 5-10.2-2-11](#); [IC 5-10.3-6-1](#); [IC 5-10.3-12-23](#); [IC 5-10.3-12-32](#)

Sec. 7. (a) Resolutions to join, expand coverage in, modify, or withdraw from the plan or fund may be submitted any time prior to the effective date.

(b) Resolutions to join shall be effective the later of January 1st or July 1st after the date of approval by the board. All other resolutions described in subsection (a) and modifications described in subsection (c) shall be effective when the necessary actuarial costs are calculated and the respective statutory requirements to expand coverage in or otherwise modify participation have been met and approved by INPRS.

(c) Resolutions and modifications to resolutions should include the following:

- (1) Whether the employer will pay mandatory contributions or voluntary contributions, or both.
- (2) The employer contribution rate, as a percentage of each member's compensation, between zero percent (0%) and the normal cost of participation in the fund, as described in [IC 5-10.2-2-11](#).
- (3) Whether the employer will match fifty percent (50%) of each participant's additional contributions to the plan.
- (4) A default plan election.
- (5) Whether the employer will allow a member retired from the fund to enroll in the plan, in accordance with [IC 5-10.3-12-32](#).**

(d) Modifications may be made during an "open enrollment" period, communicated to participating entities in advance.

(e) If an employer elects to pay all or part of the member contributions, the employer must pay the same amounts for all eligible employees ~~regardless of plan or fund membership.~~ **participating in the plan or fund.** (Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.3-7-7](#); adopted Sep 11, 2015: [20150923-IR-035150302ONA](#); adopted Nov 4, 2016: [20161116-IR-035160500ONA](#))

SECTION 12. [35 IAC 1.3-7-8](#) IS AMENDED TO READ AS FOLLOWS:

[35 IAC 1.3-7-8](#) Supplemental contribution and forfeited funds

Authority: [IC 5-10.3-12-18](#); [IC 5-10.5-4-2](#)

Affected: [IC 5-10.2-2-11](#); [IC 5-10.2-2-21](#); [IC 5-10.3-6-7](#)

Sec. 8. (a) The following participating entities with an unfunded liability are required to pay the supplemental contribution as set forth in [IC 5-10.2-2-11](#)(c):

- (1) Any participating entity with fund participation prior to July 1, 2015.
- (2) Any participating entity with participants active in a fund-covered position on July 1, 2015.

(b) The supplemental contribution is paid in addition to any plan contributions owed by the participating entity.

(c) No participating entity is required to pay the supplemental contribution for members enrolled in the plan, ~~who were if the participating entity never members of participated in~~ the fund.

(d) Participating entities who have completed and paid for a freeze, as described in [IC 5-10.2-2-21](#), and are no longer offering any positions covered by the fund, are not required to pay the supplemental contribution as set forth in [IC 5-10.2-2-11](#)(c).

(e) ~~If a participant forfeits funds upon separation from the participating entity, such forfeited funds are paid towards any unfunded liability of the participating entity.~~ **Participating entities described in subsection (c) or (d) may, at a later date, allow new employees to elect fund membership. Such participating entities are not required to pay the supplemental contribution.** (*Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.3-7-8](#); adopted Sep 11, 2015: [20150923-IR-035150302ONA](#); adopted Nov 4, 2016: [20161116-IR-035160500ONA](#)*)

SECTION 13. [35 IAC 2-1-4.6](#) IS ADDED TO READ AS FOLLOWS:

[35 IAC 2-1-4.6](#) Military leave of absence contributions

Authority: [IC 5-10.5-4-2](#); [IC 36-8-8-5](#)

Affected: [IC 36-8-5-7](#); [IC 36-8-8-3](#); [IC 36-8-8-6](#)

Sec. 4.6. (a) Pursuant to and in accordance with [IC 36-8-5-7](#), a member of a 1925, 1937, 1953, or 1977 fund does not lose his or her benefits from the fund because he or she fails to pay assessments that are assessed against him or her while on temporary leave or on a leave of absence that qualifies for the protections afforded by the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301 et seq.). These employee contributions are deemed waived and are not required to be made up.

(b) **Employee contributions must resume once the member returns to covered employment.** (*Board of Trustees of the Indiana Public Retirement System; [35 IAC 2-1-4.6](#); adopted Nov 4, 2016: [20161116-IR-035160500ONA](#)*)

SECTION 14. [35 IAC 2-1-6](#) IS AMENDED TO READ AS FOLLOWS:

[35 IAC 2-1-6](#) Calculation of prior service cost for transferred members

Authority: [IC 5-10.5-4-2](#); [IC 36-8-8-5](#)

Affected: [IC 36-8-8-18](#); [IC 36-8-8-18.1](#)

Sec. 6. (a) If a unit becomes a participant in the 1977 Fund under the conditions of [IC 36-8-8-18](#), the INPRS actuary determines the cost of the prior service. The amount the police officers or firefighters pay is the accumulated amount of contributions each member would have paid into the 1977 Fund (contributions of **six percent** (6%) of the first class officer salary with **three and one-half percent** (3.5%) annual interest) during the most recent years prior to transferring to the 1977 Fund.

(b) If the unit previously covered police officers, firefighters, or emergency medical technicians (as defined in [IC 36-8-8-18.1](#)) in PERF, the amount that the unit and the member must contribute to the 1977 Fund under [IC 36-8-8-18](#) shall be reduced by the amounts transferred to the 1977 Fund under [IC 36-8-8-18.1](#). The amount credited to the ASA to be transferred to the 1977 Fund shall be the full cost of the service if the member's ASA balance is enough to fund the full cost. If the member's ASA balance is less than the full cost of the service, the existing ASA

balance should be transferred and used to reduce the member cost. The member shall owe the remaining balance and shall pay the balance pursuant to the service purchase rules in [35 IAC 2-1-2](#); **section 2 of this rule. If the member's ASA balance is more than the full cost of the service, the ASA balance remaining after the amount equal to the full cost of service is transferred to the 1977 Fund shall remain in the ASA account.** (Board of Trustees of the Indiana Public Retirement System; [35 IAC 2-1-6](#); adopted Jun 20, 2014: [20140820-IR-035140335ONA](#); adopted Nov 4, 2016: [20161116-IR-035160500ONA](#))

SECTION 15. [35 IAC 2-1-8](#) IS ADDED TO READ AS FOLLOWS:

[35 IAC 2-1-8](#) Transfer of employee contribution from certain Indiana public retirement funds assets for service purchases

Authority: [IC 5-10.5-4-2](#)

Affected: [IC 5-10.2-3-1](#); [IC 36-8-10-12.5](#)

Sec. 8. (a) If an employee beneficiary makes a transfer pursuant to and in accordance with [IC 36-8-10-12.5\(d\)](#), the employee waives all previous service credit to the extent of the contributions from the eligible public retirement fund from which the transfer was made.

(b) Residual service credit in the previous fund remains with the previous fund until canceled by the member by taking a permissible refund, retirement, or by operation of law.

(c) Residual service credit will be calculated using the rate of employee contributions for the previous position at the time of termination from the previous position as follows:

(1) Determine the annual employee contribution amount for one (1) year of service in the previous plan.

(2) Subtract the transferred amount from the employee's ASA or contribution account used to purchase the service at the actuarial cost in the sheriff's plan.

(3) Divide the residual balance by the annual contribution amount made by the employee or picked up by the employer during the last period of covered employment in the previous position. The quotient represents the residual service credit amount, if any, in the previous plan.

(d) The amount of service credit associated with the transfer to the sheriff's plan cannot be used in the previous plan. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 2-1-8](#); adopted Nov 4, 2016: [20161116-IR-035160500ONA](#))

SECTION 16. [35 IAC 2-3-2.1](#) IS ADDED TO READ AS FOLLOWS:

[35 IAC 2-3-2.1](#) Reinstatement under settlement agreement or administrative or judicial proceeding; service credit

Authority: [IC 5-10.5-4-2](#); [IC 36-8-8-5](#)

Affected: [IC 36-8-8-3](#); [IC 36-8-8-6](#)

Sec. 2.1. Credit for lost service in the fund when a terminated member is reinstated to covered service under an agreement or under a judicial or an administrative proceeding shall be allocated by INPRS among the period the member earned or should have earned the service only when required contributions that would have been paid are received by INPRS covering the affected period of lost service. It is irrelevant whether the award or agreement included back compensation to the member during the period of lost service. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 2-3-2.1](#); adopted Nov 4, 2016: [20161116-IR-035160500ONA](#))

SECTION 17. [35 IAC 14-7-12](#) IS AMENDED TO READ AS FOLLOWS:

[35 IAC 14-7-12](#) Social Security integration; benefit calculation

Authority: [IC 5-10.2-3-6](#); [IC 5-10.5-4-2](#)

Affected: [IC 5-10.2-4](#)

Sec. 12. (a) Pursuant to [IC 5-10.2-4-7\(b\)\(3\)](#), a member who retires between fifty (50) years of age and sixty-two (62) years of age may integrate the member's monthly pension benefit with the member's estimated Social Security benefits. This option increases the monthly pension benefit amount for which the member would ordinarily be eligible from the date of retirement until sixty-two (62) years of age. When the member reaches sixty-two (62) years of age, the member's monthly pension benefit will be reduced. Depending upon the factors

used in the calculation, the member's monthly pension benefit may be reduced to zero (0). Such reduction will occur whether or not the member applies for Social Security Administration benefits.

(b) To receive an estimate of the member's monthly pension benefit with Social Security integration, the member shall obtain an estimate of Social Security benefits to be received at sixty-two (62) years of age from the Social Security Administration and provide the estimate to ~~TRF~~ **INPRS**.

(c) For retirement benefits payable on or after January 1, 2010, a member's pre-sixty-two (62) monthly pension benefit with Social Security integration shall be computed as follows:

- (1) Multiply the member's Social Security estimate for benefits to be received at sixty-two (62) years of age and actuarial factors established by ~~TRF's~~ **INPRS'** actuary, and obtain a product.
- (2) Add the amount of the member's pension as calculated in [IC 5-10.2-4-4](#) and [IC 5-10.2-4-5](#) to the product obtained in subdivision (1). For purposes of this section, the retirement benefit does not include any payments from an ASA or RSA.

(d) For retirement benefits payable on or after January 1, 2010, a member's monthly pension benefit with Social Security integration at sixty-two (62) years of age shall be computed as follows:

- (1) Multiply the member's Social Security estimate for benefits to be received at sixty-two (62) years of age and actuarial factors established by ~~TRF's~~ **INPRS'** actuary, and obtain a product.
- (2) Subtract the product obtained in subdivision (1) from the member's pre-sixty-two (62) monthly pension benefit with Social Security integration as calculated in subsection (c).

(e) Members may select any nonconflicting retirement option in addition to Social Security integration.

(f) If a retired member receiving benefits under this option dies before sixty-two (62) years of age, and a benefit is due to a survivor beneficiary under a joint and survivor option, the survivor benefit will be recalculated and adjusted as described in subsection (d), and in accord with the survivor option, when the member would have reached sixty-two (62) years of age.

~~(e)~~ **(g)** The amount of the member's Social Security benefits shall ~~is not be~~ affected by the member's election of Social Security integration. (*Board of Trustees of the Indiana Public Retirement System; [35 IAC 14-7-12](#); adopted Nov 19, 2010: [20101208-IR-550100723ONA](#); adopted Sep 11, 2015: [20150923-IR-035150302ONA](#); adopted Nov 4, 2016: [20161116-IR-035160500ONA](#)*) **NOTE:** Transferred from the Board of Trustees of the Indiana State Teachers' Retirement Fund ([550 IAC 2-7-10](#)) to the Board of Trustees of the Indiana Public Retirement System ([35 IAC 14-7-12](#)) by P.L.23-2011, SECTION 22, effective July 1, 2011.

SECTION 18. [35 IAC 14-7-14](#) IS ADDED TO READ AS FOLLOWS:

[35 IAC 14-7-14](#) When retirement application deemed received

Authority: [IC 5-10.5-4-2](#)

Affected: [IC 5-10.2-4-1](#); [IC 5-10.3-8-5](#); [IC 5-10.4-5-17](#)

Sec. 14. (a) A member who:

- (1) receives a service credit or other determination from INPRS that incorrectly states the member's vested status or eligibility to begin receiving retirement or disability benefits; and**
- (2) relies on that information to delay the member's retirement date and the filing of a retirement application;**

may be eligible for a retirement date that relates back to the date the member received the inaccurate determination or the date first eligible to begin receiving benefits following the date of the inaccurate determination. The retirement application may be deemed received on the date of the inaccurate determination or the date first eligible to begin receiving benefits following the date of the inaccurate determination.

(b) Subsection (a) applies only to members who:

- (1) were vested or eligible to begin retirement benefits, as determined by INPRS, at the time of the incorrect determination; and**
- (2) request that INPRS grant a retirement date that relates back to the date the member was first eligible for retirement benefits and follows the date of the inaccurate determination.**

(c) The member may choose a retirement date that is the first of a month following the date the

application is deemed received.

(d) The inaccurate determination does not have to be in writing if the member can show, to the satisfaction of INPRS, the determination was inaccurate, the member relied on the determination in choosing a retirement date and filing an application, and any other elements necessary to comply with this section.

(e) This rule is administered in accordance with [IC 5-10.3-8-5](#), which addresses claims of errors.

(Board of Trustees of the Indiana Public Retirement System; [35 IAC 14-7-14](#); adopted Nov 4, 2016: [20161116-IR-035160500ONA](#))

DATED: November 4, 2016

Kendall W. Cochran,

Chairman of the PERF Board of Trustees

Indiana Public Retirement Systems

Resolution adopted by 6 affirmative, 0 negative votes.

Posted: 11/16/2016 by Legislative Services Agency

An [html](#) version of this document.